

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Pedro Rosas

Name(s) of Plaintiff or Plaintiffs

Berry Plastics
(Plaintiff LLC)

Name of Defendant or Defendants



Jury Trial Demanded: Yes No

DISCRIMINATION COMPLAINT

14 -CV- 6336T

You should attach a copy of your **original Equal Employment Opportunity Commission (EEOC) complaint**, a copy of the Equal Employment Opportunity Commission **decision**, AND a copy of the "**Right to Sue**" letter you received from the EEOC to this complaint. Failure to do so may delay your case.

Note: *Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.*

This action is brought for discrimination in employment pursuant to (*check only those that apply*):

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

JURISDICTION is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

In addition to the federal claims indicated above, you may wish to include New York State claims, pursuant to 28 U.S.C. § 1367(a).

- L New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

PARTIES

1. My address is: 156 Tamarack Dr.
Rochester, N.Y. 14622

My telephone number is: 585-469-9065

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: Berry Plastics (Plant LLC)

Number of employees: 600 +

Address: 200 E. Main St
Macedon, N.Y. 14502

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: Berry Plastics (Plant LLC)

Address: 200 E. Main St
Macedon, N.Y. 14502

CLAIMS

4. I was first employed by the defendant on (date): 12. 11.09

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: July 2010 - was told I could not fill water bottle.
6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): July 2010 - July 2012 - Verbally harassed.
Sept. 2011 - Not told of Overtime approval + got suspended
Nov. 2011, Dec. 2011, Jan. 2012, Feb. 2012, March, 2012, April 2012
May 2012, June 2012 + July 2012
7. I believe that the defendant(s)
- a. Are still committing these acts against me.
b. Are not still committing these acts against me.
(Complete this next item only if you checked "b" above) The last discriminatory act against me occurred on (date) July 27, 2012
8. (Complete this section only if you filed a complaint with the New York State Division of Human Rights)
- The date when I filed a complaint with the New York State Division of Human Rights is
I believe it was February 2013
(estimate the date, if necessary)
- I filed that complaint in (identify the city and state): Rochester, N.Y.
- The Complaint Number was: _____
9. The New York State Human Rights Commission did /did not _____ issue a decision. (NOTE: If it did issue a decision, you must attach one copy of the decision to each copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: _____
11. The Equal Employment Opportunity Commission did _____ /did not _____ issue a decision. (NOTE: If it did issue a decision, you must attach one copy of the decision to each copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: _____. (NOTE: If it

(did issue a Right to Sue letter, you must attach one copy of the decision to each copy of the complaint; failure to do so will delay the initiation of your case.)

13. I am complaining in this action of the following types of actions by the defendants:

- a. Failure to provide me with reasonable accommodations to the application process
- b. Failure to employ me
- c. Termination of my employment
- d. Failure to promote me
- e. Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
- f. Harassment on the basis of my sex
- g. Harassment on the basis of unequal terms and conditions of my employment
- h. Retaliation because I complained about discrimination or harassment directed toward me
- i. Retaliation because I complained about discrimination or harassment directed toward others
- j. Other actions (please describe) Machine not properly
Set intentionally

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

- a. Race
 - b. Color
 - c. Sex
 - d. Religion
 - e. National Origin
 - f. Sexual Harassment
 - g. Age
 - h. Disability
- Date of birth _____
- Are you incorrectly perceived as being disabled by your employer?
____ yes ____ no

15. I believe that I was /was not intentionally discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are _____ is not/are not still committing these acts against me. (If you answer is that the acts are not still being committed, state when _____ and why the defendant(s) stopped committing these acts against you: They terminated me in July of 2012.
Said I was a no call no show)

17. A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim. (NOTE: You must attach a copy of the original complaint you filed with the Equal Employment Opportunity Commission and a copy of the Equal Employment Opportunity Commission affidavit to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (*check one*):

has not issued a Right to sue letter

has issued a Right to sue letter, which I received on _____

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates and places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (*Use as much space as you need. Attach extra sheets if necessary.*)

Was told (July 2010) to get water from home only. July 2010
Verbally harassed by an employee reported it several times.
finally had a meeting but person kept on doing it. Several employees
encouraged the person to assault me (Aug. 2010 - Jun. 2012).
July 2011 threatened to be terminated due to attendance,
yet another employee had worse attendance + several no call
no show; was given training for a promotion, Dec. 2011 Some
person was given more training for a promotion. When enquiring,
was told to mind my business. March 2012 thru June 2012 Machine
not properly setup film left off center 3-6 1/2 inches).

This was previously filed back in October 2013. PL

FOR LITIGANTS ALLEGING AGE DISCRIMINATION

20. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct
_____ 60 days or more have elapsed _____ less than 60 days have elapsed

FOR LITIGANTS ALLEGING AN AMERICANS WITH DISABILITIES ACT CLAIM

21. I first disclosed my disability to my employer (or my employer first became aware of my disability on _____)

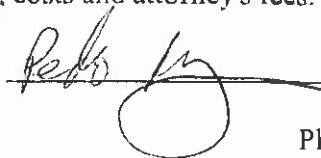
22. The date on which I first asked my employer for reasonable accommodation of my disability is _____

23. The reasonable accommodations for my disability (if any) that my employer provided to me are: _____

24. The reasonable accommodation provided to me by my employer were _____/were not
_____ effective.

WHEREFORE. I respectfully request this Court to grant me such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Dated: 06-18-14



Plaintiff's Signature